

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stavros Panagouloupoulos	Team: Team # 5	CCRB Case #: 200509347	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 08/14/2005 4:33 AM	Location of Incident: 167 Street and Jerome Avenue	Precinct: 44	18 Mo. SOL 2/14/2007	EO SOL 2/14/2007	
Date/Time CV Reported Mon, 08/15/2005 9:36 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 08/15/2005 9:36 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM John Loftus	18151	935198	044 PCT
2. POM Chris Acker	26388	889474	044 PCT
3. SGT Osvaldo Nunez	03579	918086	044 PCT
4. LT Patrick Cortright	00000	910420	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Patrick Cortright	Discourtesy: On August 14, 2005 while at 15 East 167 Street in the Bronx Lieutenant Patrick Cortright spoke obscenely and/or rudely to § 87(2)(b)	
B.SGT Osvaldo Nunez	Force: On August 14, 2005 while at 15 East 167 Street in the Bronx Sergeant Osvaldo Nunez used physical force against § 87(2)(b)	
C.LT Patrick Cortright	Force: On August 14, 2005 while at 15 East 167 Street in the Bronx Lieutenant Patrick Cortright used physical force against § 87(2)(b)	
D.LT Patrick Cortright	Off. Language: On August 14, 2005 while at 15 East 167 Street in the Bronx Lieutenant Patrick Cortright made remarks to § 87(2)(b) based upon race.	
E.POM Chris Acker	Discourtesy: On August 14, 2005 while in the 44 Precinct station house Officer Chris Acker spoke obscenely and/or rudely to § 87(2)(b)	
F.POM John Loftus	Discourtesy: On August 14, 2005 while in the 44 Precinct station house Officer John Loftus spoke obscenely and/or rudely to § 87(2)(b)	
G.POM Chris Acker	Discourtesy: On August 15, 2005 while in the 44 Precinct station house Officer Chris Acker spoke obscenely and/or rudely to § 87(2)(b) and § 87(2)(b)	

Synopsis

On August 14th, 2005 at 4:30 AM § 87(2)(b) and § 87(2)(b) were arrested inside the Two Cousin's Bar located at 15 East 167th Street in the Bronx by Sergeant Osvaldo Nunez and Lieutenant Patrick Cortright. § 87(2)(b) alleged that Lieutenant Cortright before she was arrested told her, "Shut the fuck up and sit the fuck down"(Allegation A). While she was being arrested, she was pulled down to the ground by the officers and allegedly one of them stomped on the side of her head (Allegations B and C). While she was being arrested Lieutenant Cortright allegedly called § 87(2)(b) a "savage" (Allegation D). After § 87(2)(b) was handcuffed, she was brought back to the 44th Precinct where Officer John Loftus handled her arrest paperwork. During her time in the precinct, § 87(2)(b) made a phone call to § 87(2)(b). While she was talking to him, Officer Chris Acker walked by, took the phone from her and hung it up, and told § 87(2)(b) "I hope you was talking to your fucking lawyer" (Allegation E). Later on, Officer Loftus came and said to § 87(2)(b) while she was in the detention area, "I hope you got someone to come get your shit"(Allegation F). § 87(2)(b) was later taken to central booking where she was arraigned and later released. On August 15th, 2005 between 11:30 AM and 12:00 PM § 87(2)(b) and § 87(2)(b) went into the 44th Precinct to file a report against a bouncer who had assaulted § 87(2)(b) on August 14th. While they were filing the report in the complaint room, Officer Acker came in, tore up the report and allegedly said, "Get the fuck out of here, this is bullshit. I'm tired of this shit. You ain't supposed to be back here, you ain't even supposed to be in here. Get out, this is bullshit" (Allegation G).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) called the CCRB on August 15th, 2005 at 9:36 AM to file his complaint and give his initial statement (encl.8a-b). The investigator obtained a telephone statement from him on August 17th, 2005 (encl.9a-b). § 87(2)(b) was interviewed at the CCRB where a sworn statement was taken on August 19th, 2005(encl.10a-e). § 87(2)(g)

§ 87(2)(b) when he gave his statements to the CCRB, was able to identify Officer Acker by name.

§ 87(2)(b)'s interaction with officers came on August 15th between 11:30 AM and 12:00 PM, when he and § 87(2)(b) went to file a complaint against the bouncer from the previous evening. While § 87(2)(b) and § 87(2)(b) were in the precinct waiting to be helped, § 87(2)(b) saw and pointed out Officer Acker as having been very rude to her while she had been in the precinct the night she was arrested. She did not know Officer Acker's name at this time, but learned it later on. After being helped by two other unidentified officers to complete the paperwork for the complaint, they were almost done when Officer Acker came by the desk where § 87(2)(b) and § 87(2)(b) had been sitting while being helped by a third unidentified officer. He heard § 87(2)(b) describe being taken to the hospital, and after she had said this Officer Acker asked the third unidentified officer who had been taking down the complaint what was going on. The unidentified officer told him the narrative as he had heard it. Then Officer Acker asked § 87(2)(b) who had taken her to the hospital, to which § 87(2)(b) responded that the officers who had arrested her had taken her to the hospital after she had been arrested. Hearing this, Officer Acker snatched the complaint paperwork and tear it apart. He then said, "This is a bunch of bullshit." The third unidentified officer said to § 87(2)(b) and § 87(2)(b) that she had not told him that she had been arrested, that this changes things. He told Officer Acker that he did not know this had been the case. Officer Acker, talking to the officer,

said, "Yeah, I know they didn't, cause it's a bunch of bullshit." He then took the papers that the officer had been filling out and tore them apart. He told § 87(2)(b) and § 87(2)(b) "get out, get out!" § 87(2)(b) asked why Officer Acker had ripped up the paperwork and stated that he did not understand why he and § 87(2)(b) could not file a complaint. Officer Acker said, "I don't care, get out get out!" § 87(2)(b) and § 87(2)(b) then proceeded to leave the precinct. As they were leaving § 87(2)(b) asked for his name and badge and which Officer Acker gave him. As they were walking out, Officer Acker asked them if they really did not understand why they could not file a cross complaint. When § 87(2)(b) said that they did not know, Officer Acker then explained, while still sounding very rude, that since § 87(2)(b) had been arrested as a result of the incident that their complaint would have to be made to the district attorney with the help of a lawyer.

§ 87(2)(g) In § 87(2)(b)'s initial statement to the CCRB, he identified himself as § 87(2)(b) § 87(2)(b)'s husband. He only admitted to filing the complaint under a false name after the investigator contacted § 87(2)(b) who told him that she was not married and that the real name of the person who filed the complaint was § 87(2)(b). When the investigator called § 87(2)(b) to obtain a telephone statement and confirm this, he admitted to the false name. In his initial statement, § 87(2)(b) does not mention any discourtesy being used by Officer Acker when § 87(2)(b) spoke to him in the precinct. Only in his sworn statement is this discourtesy mentioned. As § 87(2)(b) filed his complaint on August 15th, 2005 at 9:36 AM and § 87(2)(b) did not interact with Officer Acker until approximately 11:30 AM on the same date, the incident could not have been mentioned in the initial statement.

Results of Investigation

Witnesses Interviewed

§ 87(2)(b)

§ 87(2)(b) was contacted by the investigator on August 17th, 2005 and she made a telephone statement (encl.11a). § 87(2)(b) was interviewed in the CCRB on August 22nd, 2005 (encl.12a-e). § 87(2)(g)

On August 14th, 2005 at 4:19 AM § 87(2)(b) called 911 and gave a statement saying that she had been assaulted by a bouncer and provided a description of a brown skinned male approximately 6'1 wearing a light blue Hawaiian shirt, white sneakers (encl.15).

On § 87(2)(b) was seen by medical personnel. She told § 87(2)(b) and the emergency medical technician who brought her to the hospital that a bouncer had punched her. She made no mention of being struck in any way by the police (encl.11a-p).

In her statements to the CCRB, § 87(2)(b) could identify Officer Acker and Officer Loftus by name. She did not know the names of the officers identified through the investigation as Lieutenant Cortright and Sergeant Nunez. She was however able to provide descriptions for the officers. She described the officer identified as Lieutenant Cortright as a white male, with black low cut hair, approximately 230 lbs, with a stocky build, 6'1, and wearing a standard police uniform with the exception that he was wearing a white shirt. § 87(2)(b) described the officer identified as Sergeant Nunez as a white male, reddish brown short hair, uniformed, 6'1-6'2, stocky to fat build, approximately 225 lbs.

§ 87(2)(b) stated that on August 14th, 2005 at 4:19 AM in the vicinity of 15 East 167th Street § 87(2)(b) exited a bar called Two Cousins that she had gone to with a friend, § 87(2)(b). The ladies had entered the bar at 2:30 AM. § 87(2)(b) stated that she had had 2 to 3 drinks, composed of cranberry juice and vodka. 4:30 AM was closing time, so the ladies had been getting ready to leave and head home. At this time, § 87(2)(b) stated that there were still about forty to fifty people in the bar. As they were leaving § 87(2)(b) exited the bar first, walking outside. Once outside, § 87(2)(b) was about to hail a cab when she noticed that § 87(2)(b) was not outside yet. Seeing this, § 87(2)(b) attempted to reenter the bar. As she opened the door of the bar, the bouncer spun around and cursed at § 87(2)(b) § 87(2)(b) got into a verbal

confrontation with the bouncer. As § 87(2)(b) argued with the bouncer § 87(2)(b) came up from the inside of the bar and the ladies exited the bar. As the ladies were standing outside, the bouncer came out of the bar and came up to § 87(2)(b) and punched her in the right side of her face, knocking her to the ground. § 87(2)(b) suffered a black eye. Seeing this happen, the owner of the bar told the bouncer to leave, and the bouncer began to run away. § 87(2)(b) pulled § 87(2)(b) off the ground and the ladies then pursued the bouncer, following him for three blocks. The pursuit stopped when the bouncer turned around and punched § 87(2)(b) in the face. He then flagged down and entered a cab and was driven away. While they pursued the bouncer § 87(2)(b) had called 911 and told the operator that she had been assaulted and asking for officers to come to the scene. After the pursuit stopped § 87(2)(b) called her fiancé, § 87(2)(b) and told him what had happened. She then asked him to come to the scene. § 87(2)(b) left his job and come to the bar.

§ 87(2)(b) and § 87(2)(b) then returned to the bar, where officers had already arrived. § 87(2)(b) remembers at least two police cars being outside the bar. She does not remember if there were more outside. While they had been walking towards the bar, § 87(2)(b) said that her purse was still inside the bar and that they had to go inside and get it. The ladies went directly into the bar. Inside the bar, § 87(2)(b) saw Lieutenant Cortright talking to the owner of the bar and § 87(2)(b) heard the owner saying that the ladies had broken a glass in the bar. § 87(2)(b) tried to protest this, but the officers were not interested in what § 87(2)(b) had to say about the incident. The officers ignored her version of events, and instead Sergeant Nunez grabbed § 87(2)(b) by her left bicep and led her to a couch and forcefully made her sit down on the couch. After § 87(2)(b) had been grabbed and forced to sit down by Sergeant Nunez, she protested, asking why she was the one being grabbed. To this, Lieutenant Cortright said, “Sit the fuck down, shut the fuck up.” § 87(2)(b) was made to sit down again. At this time § 87(2)(b) was at the other end of the bar, bleeding from the mouth. The officers saw the blood and seemed to be very paranoid about the blood. § 87(2)(b) kept trying to stand up and explain to the officers what had happened and why § 87(2)(b) was bleeding from the mouth, but each time she stood up she was told by Lieutenant Cortright to “sit the fuck down, shut the fuck up.” § 87(2)(b) stood up five or six times, and Lieutenant Cortright cursed at her in the said manner five or six times. Finally, the last time § 87(2)(b) stood up, Lieutenant Cortright told the other officers in the location, “She don’t want to shut the fuck up and sit the fuck down, lock her up.” Lieutenant Cortright and Sergeant Nunez placed § 87(2)(b) under arrest. She was brought down to the ground by the officers and handcuffed. While on the ground with the left side of her face to the floor, § 87(2)(b) felt two kicks, one on the right side of her head and one to the small of her back. She described the feeling of the kicks as if the feet were pressing down, much like being stomped on. § 87(2)(b) felt the kicks had been deliberate. § 87(2)(b) denied resisting arrest, saying that she was taken down to the ground and handcuffed very quickly, without her having a chance to react at all. While she was being handcuffed, Lieutenant Cortright called § 87(2)(b) a “savage”. § 87(2)(b) saw and heard Lieutenant Cortright call her a savage. After being handcuffed, she was brought back up to a sitting position on the couch. While sitting on the couch § 87(2)(b) saw § 87(2)(b) open the bar door, see her, and then saw the officers close the door without letting § 87(2)(b) in. After about five minutes, § 87(2)(b) was picked up and taken outside to be placed in a patrol car. After getting into the patrol car, § 87(2)(b) requested and was taken to § 87(2)(b) where she had her injuries from the assault by the bouncer treated. From the hospital she was taken to the 44th Precinct where she was processed. § 87(2)(b) believed there were about 8 to 10 officers on the scene and at least two patrol cars. § 87(2)(b) could not provide descriptions for any of the other officers at the location other than that she gave for Lieutenant Cortright and Sergeant Nunez.

While at the precinct, § 87(2)(b) was allowed to make a phone call by Officer Loftus, her arresting officer. Officer Loftus walked away as § 87(2)(b) called § 87(2)(b). She was talking to him and telling him her version of events and denying any wrongdoing. While talking to § 87(2)(b) Officer Acker was walking by. After listening to § 87(2)(b) as she talked over the phone, Officer Acker grabbed the phone and hung it up, said, “I hope you was talking to your fucking lawyer.” He then walked away and exited the room.

When Officer Loftus came back, his attitude had changed. During the entire night Officer Loftus had not been rude to § 87(2)(b) but after her interaction with Officer Acker, Officer Loftus suddenly became rude. When discussing her property, Officer Loftus said to her either “Did you contact somebody to come get your shit” or “I hope you got somebody to come get your shit.” § 87(2)(b) was later taken to central

booking to appear before a judge. § 87(2)(b) was charged with § 87(2)(b)

On August 15th, § 87(2)(b) went with § 87(2)(b) to file a complaint against the bouncer at the precinct. When they arrived at the precinct, several officers assisted them. The first officer they dealt with took down their preliminary information and the basics of the narrative of § 87(2)(b)'s complaint. The second officer they dealt with was finishing the complaint report when Officer Acker came into the area. While he shuffled around the desk and was looking through the drawers, he heard § 87(2)(b) making her complaint. He then asked § 87(2)(b) "What was your end result?" § 87(2)(b) stated that she had been arrested. At that, Officer Acker snatched the complaint report and proceeded to tear it apart. He said, "Get the fuck out of here, this is bullshit. I'm tired of this shit. You ain't supposed to be back here, you ain't even supposed to be in here. Get out, this is bullshit." Not liking his behavior, § 87(2)(b) asked for Officer Acker's shield number, which the officer provided. As § 87(2)(b) and § 87(2)(b) were leaving the precinct, Officer Acker came to them and asked them, "Do you know why you can not file a cross complaint?" When § 87(2)(b) and § 87(2)(b) replied that they did not know, he explained to them that they would first need proof that § 87(2)(b) had been assaulted. To this § 87(2)(b) took off her glasses and showed Officer Acker her injuries. Officer Acker told § 87(2)(b) and § 87(2)(b) that since § 87(2)(b) had been arrested during the incident in question, for her to file a complaint she needed to go through the court system with a lawyer and file the complaint at the District Attorney's office. After the officer had explained this to § 87(2)(b) and § 87(2)(b) they left the precinct.

In § 87(2)(b)'s telephone statement, § 87(2)(b) did not mention any discourtesy being said by Officer Acker while she was in the precinct on August 14th. She also did not mention any discourtesy being said by Officer Loftus. § 87(2)(g)

§ 87(2)(b) In her telephone statement, § 87(2)(b) said that Officer Acker simply said, "This is bullshit." In § 87(2)(b)'s sworn statement, she described Officer Acker as saying, "Get the fuck out of here, this is bullshit. I'm tired of this shit. You ain't supposed to be back here, you ain't even supposed to be in here. Get out, this is bullshit." In § 87(2)(b)'s telephone statement, she did not mention being struck by officers at all. She only mentioned being cursed at. In her telephone statement § 87(2)(b) also did not mention the term "savages" ever being used. In her sworn statement she alleged that Lieutenant Cortright called her a "savage".

Unidentified Male

At 7:50 PM on December 1, 2005 the investigator went to the Two Cousins Bar in the Bronx to canvass for witnesses to the incident. The investigator spoke to an unidentified black male, 6'3, 230 pounds, wearing a grey long sleeved shirt and jeans that refused to give any identifying information at all. He refused to go on the record, but he spoke to the investigators with regards to the incident. He stated that he was in the bar when the two females were arrested on August 14, 2005. He stated that the two women had been drinking and were very drunk at the time of the incident. They "tore up" the bar and had to be forcibly removed. When the officers arrived at the location, the two women were walking in and out of the bar. When the officers attempted to speak to them, the women "got smart" with the officers. The unidentified male did not remember what exactly they had said. The officers did not say anything offensive when they spoke with the females. The unidentified individual described the two females as going out of control once they were outside of the bar (encl.14).

911 CD

1st Call

§ 87(2)(b) called and stated that she was punched in the face by the bouncer of the Two Cousins Bar at 167th Street and Jerome Avenue. She requested an ambulance to come to the location. She said she was punched by a brown skinned male approximately 6'1 wearing a light blue Hawaiian shirt, white sneakers. The male was in the bar and then left, walking down Jerome Avenue. He was attempting to hail a taxi. § 87(2)(b) cried while on the phone.

2nd Call

A male called and stated he was with a female who was bleeding profusely at 15 East 167th Street and River Avenue. Two ambulances arrived at the location. He mentioned that someone was fighting at the location and that a police car was needed. He mentioned someone throwing things (unspecified) at the location. The male told an unidentified person named § 87(2)(b) to speak to the police, who arrived on scene.

3rd Call

A male called 911 and reported an emergency at the Two Cousins club, on 167th Street between River Avenue and Cromwell Avenue. A female was punched by a male inside the club. The caller saw this as he was pulling up and parking his car. The male who punched the female was a black male wearing a sky blue Hawaiian shirt, sky blue pants, white sneakers. The female was attempting to use her phone to call 911, but the male caller called himself. The female appeared to be all right and an ambulance was not required. Police were needed at the location. The female and the male were outside the bar arguing.

4th Call

A male named § 87(2)(b) called and said that there is a disturbance at Two Cousin's Bar at 15 East 167th Street right by the four train. They (unidentified) broke the glass to the bar. They were banging on the glass. The "they" consisted of males and females. A female was bleeding and an ambulance was required at the location. He stated the number he was calling from is the bar's phone number, § 87(2)(b).

5th Call

§ 87(2)(b) called and said she was at the Two Cousin's Bar at East 167th Street and Jerome Avenue. She stated that some unidentified men who are black have her pocketbook. Someone in the background is yelling that they want their pocketbook. § 87(2)(b) calls the men "pussies". The caller stated that she was bleeding and required an ambulance. The caller refers to one male who is wearing shorts at the bar as a "nigger". She stated that this unidentified male had a gun. She stated that the male was "going down". § 87(2)(b) calls unidentified people "niggers" at the location and states that someone took her pocketbook. There was yelling in the background. § 87(2)(b) tells § 87(2)(b) to not touch her, as they have her pocketbook.

She stated that one of the black men had white sneakers, dark shorts, a light blue shirt and dark blue and white shirt. § 87(2)(b) stated that she was bleeding. There are the sounds in the background of various people yelling, as well as specifically § 87(2)(b) yelling at an unidentified person. § 87(2)(b) cries while on the phone (encl.15).

Witnesses not interviewed

§ 87(2)(b) was a witness to the incident and was arrested as well as a result of it. When the investigator asked § 87(2)(b) for contact information for § 87(2)(b) § 87(2)(b) said that she did not have any contact information and that § 87(2)(b) had moved away. The investigator sent two contact letters to § 87(2)(b) one on October 5th, 2005 (encl. 32a) and another on October 17th (encl.32Bb), but received no response. § 87(2)(b) has not made any attempt to contact the investigator. As of March 17th, 2006 § 87(2)(b) is not listed as an inmate in a New York City, New York State, or Federal corrections facility.

§ 87(2)(b) gave the investigator the cell number of § 87(2)(b) an alleged witness to the incident. When the investigator called the number, § 87(2)(b), a § 87(2)(b) answered and stated that no one answering to the name § 87(2)(b) used that number.

The investigator contacted by telephone the staff of the Two Cousins on October 5th and October 31st, 2005 and left messages for the owner or the bar manager § 87(2)(b) to contact the investigator with regards to what happened. On December 1st, 2005 the investigator went to the bar and spoke to the bartender, who refused to give a statement to the investigator about what happened. The investigator asked

to speak to the owner and was told he was not there. The investigator left a business card and asked that the owner contact the investigator, but to date the investigator had not been contacted by the staff of the bar.

When checking the SPRINT record of the 911 communications recorded during this incident, there were three phone numbers recorded as being the numbers from which unknown individuals called to report what had happened to 911, § 87(2)(b) and § 87(2)(b). The investigator called each of these numbers on October 5th, 2005, with negative results. When § 87(2)(b) was called, the investigator heard a beep and then the line went dead. When § 87(2)(b) was called, the investigator received an automated message saying that the number was not operational. When § 87(2)(b) was called, it was found to be the direct phone number for Two Cousins' Bar.

The bouncer was not interviewed due to an inability to identify and contact him. § 87(2)(b) could provide a description of the bouncer, but she did not know his name. There is not any record of the bouncer's name in any of the police documentation filled out in regards to the arrest. None of the officers who had been at the location knew the bouncer's name. When the investigator went to the bar on December 1st, 2005, no one other than the unidentified male who was interviewed stepped forward to speak to the investigator. Without any way to identify him, the investigator could not contact him.

Officers Interviewed

Lieutenant Patrick Cortright, of the 44th Precinct (Subject Officer)

Lieutenant Cortright stated that on August 14th, 2005 he was working from 8:00 PM to 4:35 AM. He was assigned to be the Impact Lieutenant. He was in uniform, wearing a white shirt, and working with Sergeant Osvaldo Nunez. He was using a marked patrol car, #5108.

Lieutenant Cortright recorded in his memo book the following: At 4:25 AM he received a job for a 10-30 (Robbery in progress) at 167th Street and Jerome Avenue. At 4:28 AM the officers arrived at the location. 10-12x2 (police holding two suspects) Officer John Loftus is the arresting officer for two arrests made at 15 E.167th Street. The defendants are § 87(2)(b) (DOB § 87(2)(b)) and § 87(2)(b). The two defendants were intoxicated and verbally abusive. They behaved violently, throwing chairs and tables as well as spitting blood inside the premises, refused to obey officers' verbal commands, and resisted arrest. § 87(2)(b) refused to be handcuffed. She kicked, flailed her arms, and attempted to get up off the ground. She was told she was under arrest but she did not comply with verbal commands to turn around. Both defendants were verbally abusive and used vulgar language. § 87(2)(b) broke the door to the premises. The glass par of the door was broken (encl.16a-f).

Lieutenant Cortright stated that the officers had received a call to respond to the location. When they arrived, there was a crowd of ten people outside of the Two Cousins Bar. § 87(2)(b) and § 87(2)(b) were outside the bar yelling and cursing, and spitting blood. Both appeared to be heavily intoxicated. They were slurring their speech. They could barely stand up. As the officers pulled up to the location, § 87(2)(b) and § 87(2)(b) approached the officers and attempted to speak to them, but they were unintelligible. Lieutenant Cortright tried to tell them to calm down, stop yelling, and tell him what happened. § 87(2)(b) and § 87(2)(b) did not cooperate, instead continuing to yell. Lieutenant Cortright left the two females with Sergeant Nunez and went to speak to someone in the bar to find out what happened. He met an individual in the doorway of the bar who identified himself as the bar owner's son. Lieutenant Cortright questioned him about what had happened, and he told Lieutenant Cortright that § 87(2)(b) and § 87(2)(b) had been drinking in the bar. They had gotten into a ruckus, fighting in the bar, and had to be forcibly removed from the bar. Looking inside the bar, Lieutenant Cortright saw that there were tables and chairs knocked down on the floor. As Lieutenant Cortright was speaking with the owner's son, § 87(2)(b) and § 87(2)(b) said something to the effect of, "Fuck that", and left, walking up the block away from the bar.

Lieutenant Cortright finished speaking to the owner's son and went to his car. He planned to go 10-98 (Resume Patrol), as the situation had resolved. A minute after having finished his conversation with the owner's son, § 87(2)(b) and § 87(2)(b) came back to the location. Lieutenant Cortright did not see them enter the bar, but he heard the door crash and the owner's son yell, "Help me!" Lieutenant Cortright went

inside to see what was going on and saw § 87(2)(b) close to the owner's son, swinging a chair. § 87(2)(b) was farther away, throwing things, Lieutenant Cortright did not remember what exactly. More chairs and tables had been knocked over, and the glass part of the door had been broken by § 87(2)(b).

Lieutenant Cortright arrested § 87(2)(b). He told § 87(2)(b) to turn around, that she was under arrest. § 87(2)(b) responded, "Psh, for spitting blood? I don't have AIDS", and refused to turn around. She would not allow the officers to cuff her, flailing her arms. Lieutenant Cortright took § 87(2)(b) to the ground. Lieutenant Cortright did not remember the method by which he exactly took § 87(2)(b) to the ground. Once she was on the ground, Lieutenant Cortright, with Sergeant Nunez's assistance, handcuffed § 87(2)(b). While she was being handcuffed § 87(2)(b) continued to resist, flailing her arms, kicking, and continually trying to get up off the ground, despite Lieutenant Cortright telling her, "Stay down, stop, stop." After § 87(2)(b) was finally handcuffed, she became cooperative. Lieutenant Cortright did not know how § 87(2)(b) was arrested or by whom. He said that no one wanted to touch her, as she had blood all over her. The officers tried to get rubber gloves from EMS when they eventually arrived to handle her. Lieutenant Cortright denied using any profanity or offensive language in speaking to § 87(2)(b).

§ 87(2)(b) who was completely irrational and intoxicated, was transported directly from the location to the hospital, as Lieutenant Cortright was not going to have her brought to the precinct in the condition she was in. She needed to be detoxed. § 87(2)(b) was taken to the 44th Precinct.

Lieutenant Cortright did not observe any injuries on § 87(2)(b) or § 87(2)(b). They were both spitting blood, however. Lieutenant Cortright did not know where the blood was coming from. § 87(2)(b) did not try to explain to Lieutenant Cortright why they might have had issue with the owner's son. § 87(2)(b) did not provide an explanation for their behavior during the incident (encl.17a-b).

Sergeant Osvaldo Nunez, of the 44th Precinct (Subject Officer)

Sergeant Osvaldo Nunez stated that on August 14th, 2005 he was working from 8:00 PM to 4:35 AM. He was in uniform and partnered with Lieutenant Cortright. His assignment was Impact sergeant. He was using a marked patrol car, #5108. Sergeant Nunez does not have any memo book entries with regards to the incident.

§ 87(2)(g) Sergeant Nunez (interviewed 11-30-05), who was interviewed before Lieutenant Cortright (interviewed 12-30-05), did not mention seeing § 87(2)(b) and § 87(2)(b) cause further damage to the bar when they came into the bar the second time. He also stated that when § 87(2)(b) and § 87(2)(b) were being arrested, the officers first attempted to arrest § 87(2)(b). When § 87(2)(b) interfered and tried to prevent them from handcuffing § 87(2)(b) by pulling the handcuffs away, then Sergeant Nunez proceeded to arrest § 87(2)(b). He said that he took § 87(2)(b) to the ground on his own, as she was flailing her arms and resisting attempts to handcuff her. Once on the ground, Sergeant Nunez proceeded to handcuff her. He may have had help from Lieutenant Cortright, but he did not know. The force used was limited to that needed to restrain § 87(2)(b). Sergeant Nunez stated that he may have cursed during the struggle while attempting to order § 87(2)(b) to stop resisting being handcuffed. Sergeant Nunez did not remember what he said. He said that at no time was the word savage used by anyone (encl.19a-b).

Officer John Loftus, of the 44th Precinct (Subject Officer)

Officer John Loftus stated that on August 14th, 2005 he was working from 11:15 PM to 7:50 AM. He and his partner Officer Timiny were in uniform and using marked patrol car #2252. Their assignment was sector patrol.

Officer Loftus recorded in his memo book that at 4:35 AM he responded to a call for assistance at 15 East 167th Street put over the radio. Lieutenant Cortright was already on scene. At 4:45 AM two individuals were arrested at 15 East 167th Street. At 5:30 AM Officer Loftus was at the hospital with a female defendant. At 8:00 AM Officer Loftus returned to the precinct. At 9:20 AM Officer Loftus gave § 87(2)(b) § 87(2)(b)'s belongings (encl.20a-c).

On August 14th, 2005 Officer Loftus filled out arrest reports for § 87(2)(b) (encl.22a-b) and § 87(2)(b) (encl.21a-b) as well as a complaint report (encl.23a-b). He stated in these reports that both females had fought and argued with the management at 15 East 167th Street, a licensed bar. After engaging in an argument with the management, the two females broke glass and threw chairs without permission or the authority to do so. Both females resisted arrest by flailing their arms and kicking their legs. § 87(2)(b) caused further alarm by spitting blood at both police officers and the management of the establishment, causing them to fear for their safety. In the reports it is recorded that both females were intoxicated when they were arrested.

Officer Loftus stated that he arrived at the Two Cousin's Bar in response to the officer in need of assistance call that was put out over the radio. When he arrived, the two females that had been arrested were already being taken out of the bar. One female, § 87(2)(b) upon being taken out was being put directly into an ambulance and taken to the hospital. § 87(2)(b) was put into a patrol car and taken directly to the precinct. § 87(2)(b) may have been at the location as well. Officer Loftus was assigned by Lieutenant Cortright to handle the arrest paperwork for both § 87(2)(b) and § 87(2)(b). Officer Loftus took down the information given to him by Lieutenant Cortright with regards to what happened. He entered the premises of the bar and inspected it. There were chairs broken, the door was damaged, blood and glass on the floor. Officer Loftus interviewed the complainant, who was an employee of the bar. The complainant stated that § 87(2)(b) and § 87(2)(b) had been in the bar drinking and being disorderly. He had thrown them out, and they had come back in a few times. Finally, the complainant called the police to the location. Officer Loftus took pictures of the damage, which were vouchered as arrest evidence. After finishing his investigation, he went back to the precinct to prepare his paperwork.

After returning to the precinct, Officer Loftus had to accompany § 87(2)(b) when she went to the hospital. She did not appear to be injured, but she was taken anyway. While she was at the hospital, § 87(2)(b) did make one phone call, but Officer Loftus could not remember to whom. Officer Loftus does not remember § 87(2)(b) making any other phone calls. § 87(2)(b) was later brought back to the precinct, where she was held until she was later brought to criminal court. While in the precinct, Officer Loftus asked § 87(2)(b) if someone could come down to the precinct to get her property. § 87(2)(b) later came down and picked up the property. Officer Loftus did not observe § 87(2)(b) interact with Officer Acker. § 87(2)(b) did not mention anything with regards to her making a phone call to 911. She was unhappy that she had been arrested. § 87(2)(b) was intoxicated. She smelled of alcohol, had slurred speech, and was unsteady on her gait. Officer Loftus did not use any profanity in speaking to § 87(2)(b) (encl.24a-b).

Officer Chris Acker, of the 44th Precinct (Subject Officer)

Officer Acker stated that on August 14th, 2005 he was working from 7:05 AM to 3:40 PM. He was in uniform and assigned to be the assistant desk officer of the 44th Precinct for that tour. He does not have any memo book entries with regards to the incident.

The detention cell area is to the extreme right of the precinct desk, through a open doorway. The bench and cell in the detention area is visible from the desk. During the course of his duties Officer Acker does not have to enter the detention area for any reason. He would not be involved in prisoners making phone calls. The only person who would be involved in that would be the arresting officer. Officer Acker, during the course of the day, did not recall interacting with § 87(2)(b). He was shown a photo of her but did not recognize her. He said that he did not recall any female yelling on the phone in the detention area. He did not hear from a female about problems at a bar. At no time did Officer Acker use any profanity in speaking to a civilian that evening.

Officer Acker stated that on August 15th, 2005 he was working from 7:05 AM to 3:40 PM. He was in uniform and assigned to be the assistant desk officer of the 44th Precinct for that tour. He does not have any memo book entries with regards to the incident.

Officer Acker stated that his duties during the course of the day are similar to what was stated above. During the course of completing his paperwork he would be staying at the precinct desk. For no reason would he need to pass through the complaint room. He did not recall interacting with § 87(2)(b). He did

not recall discussing with any civilians the problem of filing cross complaints. He did not use any profanity in speaking to any civilians in the complaint room on August 15th (encl.26a-b).

Medical Records

§ 87(2)(b) provided the hospital documentation of § 87(2)(b)'s medical treatment on § 87(2)(b). In the medical documentation it is noted that § 87(2)(b) was intoxicated when she was seen by Emergency Doctor § 87(2)(b). In the notes recorded by § 87(2)(b) as well as the social worker who later spoke to § 87(2)(b) she stated that she had been punched by a bouncer at the bar. No mention is made of any allegation against police officers (encl.13a-p).

Police Records

On August 14th, 2005 Officer Loftus filled out arrest reports for § 87(2)(b) (encl.22a-b) and § 87(2)(b) (encl.21a-b). He stated in these reports that both females had fought and argued with the management at 15 East 167th Street, a licensed bar. After engaging in an argument with the management, the two females broke glass and threw chairs without permission or the authority to do so. Both females resisted arrest by flailing their arms and kicking their legs. § 87(2)(b) caused further alarm by spitting blood at both police officers and the management of the establishment, causing them to fear for their safety. In the reports it is recorded that both females were intoxicated when they were arrested.

On August 14th, 2005 Officer Loftus filled out a complaint report regarding the arrests of § 87(2)(b) and § 87(2)(b) which stated that the bar manager § 87(2)(b) was the victim and reporter of § 87(2)(b)'s and § 87(2)(b) behavior (encl.23a-b).

On August 14th, 2005 it is recorded in the 44th Precinct Command Log that at 4:50 AM Officer Loftus arrested § 87(2)(b) and § 87(2)(b) for § 87(2)(b) and that both females were intoxicated (encl.27).

The SPRINT record generated for the incident on August 14th, 2005 records that at 4:19 § 87(2)(b) called 911 asking for officers and EMS to come to the location as she had been assaulted by a bouncer. Officers arrived at the location as well as EMS. Two people were arrested at the location, and one of them was taken directly to § 87(2)(b) from the location (encl.28a-e).

Disposition of the Criminal Court Cases

§ 87(2)(b) [§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

CCRB Histories

Lieutenant Cortright, in his sixteen years as a NYPD officer, has had one substantiated allegation. The allegation was with regards to a vehicle stop pleaded in CCRB case #200412058. As of March 9th, 2006 there has not been a disposition assigned to the allegation by the NYPD (encl.2).

Sergeant Nunez, in his nine years as a NYPD officer, has had one allegation substantiated by the CCRB, that of a radio being used as a club, pleaded in CCRB case #200100569. The end disposition of the allegation was that Sergeant Nunez was found to be not guilty by the NYPD (encl.3a-b).

Officer Acker, in his nineteen years as a NYPD officer, has had four CCRB allegations substantiated. In CCRB case #200307549 allegations of nightstick used as club, questioned and or stopped, and refusal to provide medical treatment were substantiated. The end disposition of the allegations was that Officer Acker was given instructions by the NYPD. In CCRB case #200408916 an allegation of discourtesy was

substantiated, with the eventual disposition of Officer Acker being given instructions by the NYPD (encl.5a-c).

Officer Loftus in his one year as a NYPD officer has no substantiated CCRB allegations (encl.4).

§ 87(2)(b) has not filed any previous cases at the CCRB (encl.6).

§ 87(2)(b) has not participated in any previous cases at the CCRB (encl.7).

Conclusions and Recommendations

Officer Identification

Officer Loftus was identified as a subject officer through the course of the investigation through the fact that § 87(2)(b) was able to provide his name as well as identify him as the officer who handled her arrest paperwork. When interviewed Officer Loftus confirmed that he had interacted with § 87(2)(b) Officer Acker was identified as a subject officer because § 87(2)(b) provided both his name as well as his shield number in identifying him as the subject of two allegations. Officer Acker confirmed that he was working within the precinct on both dates of occurrence. § 87(2)(b) was also able to identify Officer Acker by name. Lieutenant Cortright was identified as a subject officer using the description provided by § 87(2)(b) who described him as a commanding officer in a white shirt. Lieutenant Cortright is the only commanding officer to have responded to the incident location who would have been wearing a white shirt. In addition, Lieutenant Cortright when interviewed confirmed that he interacted with § 87(2)(b) and had been personally involved in arresting her. Sergeant Nunez was identified as a subject officer through the course of the investigation. When interviewed, he confirmed that he had been involved in the incident.

Agreed Facts and Issues in Dispute

It is agreed to by all parties that § 87(2)(b) and § 87(2)(b) were arrested by the officers for causing a disturbance in the bar and resisting arrest. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Credibility

§ 87(2)(g)

§ 87(2)(b) In her telephone statement, she did not mention an officer using the word “savage” when she was being arrested at all. She did not describe being kicked or stomped on by officers when she was being arrested. In her sworn statement, she alleged that Lieutenant Cortright called her a “savage” and that she was stomped on while she was being arrested. In her medical records it is recorded that § 87(2)(b) described being punched by a bouncer at the bar. She does not mention being hit at all by officers. In her telephone statement, § 87(2)(b) does not mention Officer Loftus using any profanity in speaking to her while she was in the precinct. In her sworn statement, § 87(2)(b) alleged that Officer Loftus cursed at her. In her telephone statement § 87(2)(b) does not state that Officer Acker had any interaction with her on August 14th. With regards to the incident on August 15th § 87(2)(b) described Officer Acker as saying, “This is bullshit.” She did not say he said anything further. In her sworn statement, § 87(2)(b) alleged that Officer Acker cursed at her on August 14th in the precinct, and alleged that on August 15th Officer Acker said, “Get the fuck out of here, this is bullshit. I’m tired of this shit. You ain’t supposed to be back here, you ain’t even supposed to be in here. Get out, this is bullshit.” § 87(2)(g) § 87(2)(b) stated that she had not been intoxicated when she was arrested on August 14th. In all the police documentation found regarding the incident § 87(2)(b) is described as being intoxicated. All the officers interviewed except Officer Acker, who was not present at the incident location, described § 87(2)(b) as being highly intoxicated. In the medical documentation generated as a result of this incident, § 87(2)(b) is described by § 87(2)(b) as being intoxicated when he evaluated her in § 87(2)(b) § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A) On August 14, 2005 while at 15 East 167 Street in the Bronx Lieutenant Patrick Cortright spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(b) alleged that Lieutenant Cortright cursed at her before she was arrested in the Two Cousin's bar, saying, "Shut the fuck up." Lieutenant Cortright stated that he did not use any profanity in speaking to § 87(2)(b)

§ 87(2)(g)

Allegation B) On August 14, 2005 while at 15 East 167 Street in the Bronx Sergeant Osvaldo Nunez used physical force against § 87(2)(b)

Allegation C) On August 14, 2005 while at 15 East 167 Street in the Bronx Lieutenant Patrick Cortright used physical force against § 87(2)(b)

Sergeant Nunez and Lieutenant Cortright admitted to using physical force in pulling § 87(2)(b) to the ground so that she could be handcuffed. They stated that they did this in response to § 87(2)(b) resisting arrest by flailing her arms, kicking her legs, and trying to grab at the handcuffs. § 87(2)(b) denied resisting arrest and alleged that an officer she could not identify stomped on her head. § 87(2)(g)

§ 87(2)(g)

In NYPD patrol guide procedure 203-11, it states that officers are allowed to use the minimum force necessary to effect an arrest (encl.1a-b). § 87(2)(g)

Allegation D) On August 14, 2005 while at 15 East 167 Street in the Bronx Lieutenant Patrick Cortright made remarks to § 87(2)(b) based upon race.

§ 87(2)(b) alleged that Lieutenant Cortright while she was being arrested called § 87(2)(b) a “savage”. Lieutenant Cortright and Sergeant Nunez denied that word ever being used by anyone at the location. § 87(2)(g)

Allegation E) On August 14, 2005 while in the 44 Precinct station house Officer Chris Acker spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(b) alleged that Officer Acker while she was talking on the phone to § 87(2)(b) in the 44th Precinct took the phone from her, hung it up, and then said, “I hope you was talking to your fucking lawyer”. Officer Acker denied saying this. § 87(2)(g)

Allegation F) On August 14, 2005 while in the 44 Precinct station house Officer John Loftus spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(b) alleged that Officer Loftus said to her, “I hope you got somebody to come get your shit” or “Did you contact somebody to come get your shit”. Officer Loftus said he did not use any profanity in speaking to § 87(2)(b) § 87(2)(g)

Allegation G) On August 15, 2005 while in the 44 Precinct station house Officer Chris Acker spoke obscenely and/or rudely to § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) alleged that when they went to the 44th Precinct to file a complaint about the bouncer, Officer Acker cursed at them. § 87(2)(b) in his sworn statement but not his telephone statement stated that officer Acker said, “This is bullshit.” § 87(2)(b) in her telephone statement said that Officer Acker said, “This is Bullshit”. In her sworn statement she alleged that Officer Acker said, ““Get the fuck out of here, this is bullshit. I’m tired of this shit. You ain’t supposed to be back here, you ain’t even supposed to be in here. Get out, this is bullshit.” Officer Acker denied using any profanity. He did not even recall interacting with § 87(2)(b) or § 87(2)(b) § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: